

Title Suit No. 259 of 2022
(CNR No. WBSP02-000621-2022)

JO Code: WB01138
Order Dated 15.03.2024

Today is fixed for filing W.S. and W.O. by defendant no. 1 i.d. exparte and S/R, A/D upon the rest and hearing petition under Order 39 Rule 1 and 2 of C.P.C. and a petition under Section 151 of C.P.C., W.O. if any, in the meantime.

Plaintiff files hazira.

Defendant no. 1 files hazira.

Now, the petition under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. dated 28.02.2022 is taken up for consideration.

After thorough consideration and discussion, Ld. Counsels of both side agreed that the ad-interim order dated 28.02.2022 with respect to maintaining status-quo regarding nature, character and possession of the suit property be extended till the disposal of the suit.

Hence, the order dated 28.02.2022 is hereby made absolute.

Thus, petition under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. dated 28.02.2022 is disposed off.

Now, the petition under Section 151 of C.P.C. dated 21.12.2023 filed by the plaintiff is taken up for consideration.

Ld. Counsel for the plaintiff stated that plaintiff's mother, defendant and plaintiff being joint owners of the suit property in Ejectment Suit No. 19976 of 2012 received a decree in favour of the owners on 27.05.2016 and ultimately the owners got possession of the suit property as described in the petition. Ld. Counsel for the plaintiff prayed for keeping the said portion of the suit property allocated in the ground-floor to remain in joint possession of the plaintiff and the defendants till the final disposal of the suit.

Ld. Counsel for the defendants did not raise objection to the instant petition.

On consideration of the submissions of Ld. Counsels for both sides and on perusal of the spirit of the petition, it is noticed that the instant suit is one for partition and injunction and hence all the properties must be brought into consideration and thus, the portion of the suit property over which the parties to the suit had obtained possession recently ought to remain in joint possession of both the parties till the disposal of the suit.

Hence, the petition under Section 151 of C.P.C. dated 21.12.2023 filed by plaintiff is considered and allowed.

The petition under Section 151 of C.P.C. dated 21.12.2023 stands disposed off.

Fix 03.05.2024 for filing W.S. by defendant no. 1 as last chance i.d. necessary order and S/R & A/D upon rest.

Dictated and corrected by me
Sd/- Dr. Pritamana Nanda (WB01138)
6th Court, Civil Judge (Sr. Divn) Alipore

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